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**REJECTION UNDER 35 U.S.C. § 112**

Claims 10 and 11 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. Regarding the term "anti-removal means", this term and the accompanying structure is defined on Page 12, lines 14-23, which was amended in the previous amendment. A clean copy of the paragraph beginning on Page 12, line 14 is duplicated below.

In order to minimize the possibility of inadvertent removal of the movable fence 24 from the table 13 and the frame 12 during position adjustments, the front face of the tongue 44 is preferably provided with anti-removal means in the form of an elongated antiremoval groove or slot 80 extending laterally therealong and a complementary projection 82, as shown in Figures 7 and 9. Complementary projection 82 is fixed to the fence-supporting portion 26 and protrudes into the slot 46 to be received in the antiremoval groove 80. As perhaps best seen in Figure 9, the lateral length of the groove 80 is sufficient to allow full adjusting movement of the movable fence 24 but insufficient to allow inadvertent removal of the movable fence 24. In addition, the clamping plate 62 also interferes with removal of the movable fence 24 unless the clamping plate 62 is first loosened.

Reconsideration of the rejection is respectfully requested.

### **DOUBLE PATENTING**

Claims 1, 10, 11, 14, 15 and 22-26 re rejected under the judicially created doctrine of non-statutory double patenting over Claims 1-47 of U.S. Patent No. 5,297,463. Applicant will respond to the double patenting rejection if it continues to be made in response to amended claims which are found to be allowable except for the double patenting issue.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1 and 22-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Viazanko (U.S. Pat. No. 4,798,113). Claim 1 has been amended to define the first position as forming a first acute angle with respect to the table and the second position as forming a second acute angle with respect to the table. Viazanko discloses a saw which changes the angular position with respect to the fence and not the table. Thus, Viazanko is always perpendicular to the table. In addition, Claim 1 has been amended to define the first movable fence as being movable to provide clearance when the cutting tool is in its third position. Since Viazanko does not move to a position forming an acute angle with respect to the table, this limitation is clearly not met by Viazanko. Thus, Applicant believes Claim 1, as amended, patentably distinguishes over the art of record. Reconsideration of the rejection is respectfully requested.

Claim 22 has been amended to more clearly define the size of the two fences. The fixed fence has a fixed distance from the supporting surface to the upper surface of the fixed fence. The movable fence has a movable distance from the upper surface of the fixed fence to the upper surface of the movable fence. The movable

distance is greater than the fixed distance. Thus, it is clear that the movable fence is taller than the fixed fence. This size relationship is necessary for the present invention so that the saw blade can move to a bevel angle as shown in Figure 9 without interfering with the fixed fence. The higher the fixed fence is, the more of it that has to be cut away to allow blade angulation and thus the loss of support during a straight cut. This feature is not a consideration in Viazanko, which shows the fixed as being taller than the movable due to the fact that Viazanko does not angulate with respect to the table. Thus, Applicant believes Claim 22, as amended, patentably distinguishes over the art of record. Likewise, Claims 23 and 24, which ultimately depend from Claim 22 are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 10, 11, 14, 15 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Viazanko (U.S. Pat. No. 4,798,113). Claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Viazanko (U.S. Pat. No. 4,798,113) in view of Novak (U.S. Pat. No. 3,901,498). Claims 10, 11, 14 and 15 ultimately depend from Claim 1. Claims 25 and 26 ultimately depend from Claim 22. As stated above, Claims 1 and 22 have been amended and are now believed to patentably distinguish over the art of record. Thus, Claims 10, 11, 14, 15, 25 and 26 are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

### REJOINDER

Applicant respectfully requests the rejoinder of Claims 2-7.

### CONCLUSION


It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated:

July 10, 2002

By:

  
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**ATTACHMENT FOR CLAIM AMENDMENTS**



The following is a marked up version of amended Claims 1 and 22 in which underlines indicates insertions and brackets indicate deletions.

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TC 3700 MAIL ROOM

1. (Twice Amended) A miter saw comprising:

a base;

a table rotatably attached to the base;

a saw assembly pivotably connected to the table, said saw assembly comprising a rotatable cutting tool, a motor driving the cutting tool, and a housing covering the motor, the cutting tool being pivotably movable about a chopping axis in order to move the cutting tool towards the table for cutting a workpiece, the cutting tool being movable between a first position substantially perpendicular to the table, a second position inclined in a first direction from the first position to form a first acute angle with respect to the table, and a third position inclined in a second direction from the first position to form a second acute angle with respect to the table, the second direction being opposite to the first direction;

a first fence assembly disposed on one side of the base, the first fence assembly comprising a first fixed fence attached to the base, and a first movable fence being interconnected with the first fixed fence, the first movable fence being movable to provide clearance for said cutting tool when said cutting tool is in said second position;

and

a second fence assembly disposed on the other side of the base, the second fence assembly comprising a second fixed fence attached to the base, and a second movable fence being interconnected with the second fixed fence the second movable fence being movable to provide clearance for said cutting tool when said cutting tool is in said third position.

22. (Twice Amended) A compound miter saw comprising:

a base;

a table rotatably supported by said base, said table and said base defining a first planar workpiece supporting surface;

a saw blade rotatably supported by said base;

an adjustable, laterally-extending, workpiece-supporting fence assembly, said fence assembly including a first fixed fence fixedly interconnected with the base and disposed on one side of the saw blade, and a movable fence selectively laterally movable and interconnected with the base and disposed on said one side of said saw blade, said first fixed fence defining a second planar workpiece supporting surface which extends a [first]fixed distance from said first planar workpiece supporting surface to an upper surface of said first fixed fence and said movable fence defining a third planar workpiece supporting surface which extends a [second]movable distance from said upper surface of said first fixed fence to an upper surface of said movable fence, [said first fixed fence and said movable fence being located on said one side of said saw blade,] said [second]movable distance being greater than said [first]fixed distance.